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10/787,356	02/26/2004	Jay S. Walker	03-005	4853

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EXAMINER

HUFFMAN, BRIAN GEORGE

ART UNIT PAPER NUMBER

3709

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	01/17/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

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Office Action Summary	Application No.	Applicant(s)	
	10/787,356	WALKER ET AL.	
	Examiner	Art Unit	
	Brian G. Huffman	3709	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 February 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|--|
| <p>1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)</p> <p>2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)</p> <p>3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
 Paper No(s)/Mail Date <u>02/26/2004</u>.</p> | <p>4) <input type="checkbox"/> Interview Summary (PTO-413)
 Paper No(s)/Mail Date. ____.</p> <p>5) <input type="checkbox"/> Notice of Informal Patent Application</p> <p>6) <input type="checkbox"/> Other: ____</p> |
|---|--|

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DETAILED ACTION

Claim Objections

1. Claims 10, 13, 15-16 and 20 are objected to because of the following informalities:

Re claim 10: -- first -- should be inserted between "an" and "outcome" in line 1.

Re claim 13: -- of -- should be inserted between "situation" and "the" in line 4.

Re claims 15-16: "a" should be changed to -- the -- in line 2.

Re claim 20: -- of -- should be inserted between "situation" and "the" in line 2.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claim 20 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The limitation "the reels" in line 4 lacks proper antecedent basis as there is no prior mention of reels in the claim or the claim from which it depends.

Appropriate correction is required.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 13 and 17-19 are rejected under 35 U.S.C. 102(b) as being anticipated by Baerlocher et al. (US 2002/0016200, herein Baerlocher '200).

Re claim 13: Baerlocher '200 discloses a method comprising: initiating a secondary game at a gaming device, in which the course of the secondary game depends on outcomes of two or more handle pulls (Para. [0067]-[0068]); determining a first situation the secondary game (initialization of path and location of the game character 58b), in which the first situation includes a first plurality of locations (56b, Fig. 11) that may be occupied by a game character (58b, Fig. 11), in which the first situation includes a first set of connections among the first plurality of locations, and in which at least one of the first plurality of locations confers an advantage (i.e. bonus amount of location 56b) to a player if occupied by the game character (as depicted in Fig. 11; Para. [0067]-[0069]); determining a first outcome (i.e. the game character 58b moving a certain number of spaces; Para. [0067]); and determining a second situation of the secondary game (second location of game character 58b), in which the second situation includes a second plurality of locations (56b) that may be occupied by the game character, in which the second situation includes a second set of connections among the second plurality of locations, and in which at least one of the second plurality of locations confers an advantage (i.e. bonus amount of location 56b) to the player if occupied by the game character (Fig. 11; Para. [0067]-[0069]). With respect to applicant's "handle pulls", Baerlocher discloses a play button (20) which serves the same function as pulling a handle (18) of the gaming machine (Fig. 1; Para. [0035]), and is considered to be an equivalent.

Re claim 17: Baerlocher '200 discloses a method comprising: initiating a secondary game at a gaming device, in which the course of the secondary game depends on outcomes of two or more handle pulls (Para. [0067]-[0068]); determining a first situation of the secondary game (initialization of path and location of the game character 58b), in which the first situation includes an objective (reaching the "starting" location 56b after a number of laps) and a first prize amount (i.e. bonus amount of location 56b) associated with the objective; determining a first outcome (i.e. the game character 58b moving a certain number of spaces; Para. [0067]); and determining, based on the first situation and the first outcome, a second situation, in which the second situation includes the objective and a second prize amount (i.e. bonus amount of location 56b) associated with the objective (Fig. 11; Para. [0067]-[0069]). See claim 13 above regarding applicant's "handle pulls".

Baerlocher '200 further discloses the following:

Re claim 18: determining a second situation includes determining, based on the first situation and the first outcome, a second situation, in which the second situation includes the objective and a second prize amount associated with the objective, and in which the second prize amount is different from the first prize amount (different bonus values of the various locations on the path 54b, Fig. 11).

Re claim 19: determining a first situation includes determining a first situation of the secondary game, in which the first situation includes an objective for a game character (58b) to reach a particular square on a game board (reaching the "starting" location 56b after a number of laps), and in which the first situation includes a first prize amount associated with the objective (Fig. 11; Para. [0067]-[0069]).

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6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

7. Claims 11-12 are rejected under 35 U.S.C. 102(e) as being anticipated by Webb et al. (US 6,733,389).

Re claim 11: Webb discloses a method comprising: initiating a secondary game (204) at a gaming device, in which the course of the secondary game depends on outcomes of two or more handle pulls (Col. 10, lines 63-67, Col. 11, lines 7-16); determining a first situation of the secondary game, in which the first situation includes a first number of handle pulls (as represented by 212, Fig. 9B) available for completing the secondary game (as depicted in Fig. 9B); determining a first outcome (as represented by the symbols on the reels 34, Fig. 9B); and determining based on the first game situation and the first outcome, a second game situation, in which the second game situation includes a second number of handle pulls (as represented by 212, Fig. 9C) available for completing the secondary game (as depicted in Fig. 9B) (Col. 11, lines 7-40).

Re claim 12: Webb further discloses that the second number of handle pulls (as represented by 212, Fig. 9E) is less than one less than the first number of handle pulls (as represented by 212, Fig. 9D) (Col. 12, lines 28-49).

8. Claims 13-19 are rejected under 35 U.S.C. 102(e) as being anticipated by Baerlocher et al. (US 6,602,136, herein Baerlocher '136).

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Re claim 13: Baerlocher '136 discloses a method comprising: initiating a secondary game at a gaming device, in which the course of the secondary game depends on outcomes of two or more handle pulls (Col. 8, lines 55-60); determining a first situation the secondary game (initialization of paths 54 and location of the symbol marker 58), in which the first situation includes a first plurality of locations (66, Fig. 10) that may be occupied by a game character (58, Fig. 10), in which the first situation includes a first set of connections among the first plurality of locations, and in which at least one of the first plurality of locations confers an advantage (i.e. bonus amount of location 66) to a player if occupied by the game character (as depicted in Fig. 10); determining a first outcome (i.e. the symbol marker 58 moving a certain number of spaces); and determining a second situation of the secondary game (second location of symbol marker 58), in which the second situation includes a second plurality of locations (66, of middle path 54) that may be occupied by the game character, in which the second situation includes a second set of connections among the second plurality of locations, and in which at least one of the second plurality of locations confers an advantage (i.e. bonus amount of location 66) to the player if occupied by the game character (Fig. 10) (Col. 8, lines 14-67; Col. 9, lines 1-22). With respect to applicant's "handle pulls", Baerlocher discloses a play button (20), which serves the same function as pulling a handle (18) of the gaming machine (Fig. 1; Col. 4, lines 43-47), and is considered to be an equivalent.

Baerlocher '136 further discloses the following:

Re claim 14: the second situation includes a second set of connections among the second plurality of locations (as represented by the middle path 54 of Fig. 10), the second set of connections differing from the first set of connections (as represented by the lower path 54 of Fig. 10).

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Re claim 15: the second situation includes a second plurality of locations that may be occupied by a game character (as represented by the middle path 54 of Fig. 10), the second plurality of locations differing from the first plurality of locations (as represented by the lower path 54 of Fig. 10).

Re claim 16: the second situation includes a second plurality of locations that may be occupied by a game character (as represented by the middle path 54 of Fig. 10), the first plurality of locations including one location not included in the second plurality of locations (as represented by the lower path 54 of Fig. 10, the lower path having more locations 66).

Re claim 17: Baerlocher '136 discloses a method comprising: initiating a secondary game at a gaming device, in which the course of the secondary game depends on outcomes of two or more handle pulls (Col. 8, lines 55-60); determining a first situation of the secondary game (initialization of paths 54 and location of the symbol marker 58), in which the first situation includes an objective (collecting a certain amount of accumulation symbols 60) and a first prize amount (i.e. bonus amount of location 66) associated with the objective; determining a first outcome (i.e. the symbol marker 58 moving a certain number of spaces); and determining, based on the first situation and the first outcome, a second situation (second location of symbol marker 58), in which the second situation includes the objective and a second prize amount (i.e. bonus amount of location 66) associated with the objective (Fig. 10; Col. 8, lines 14-67; Col. 9, lines 1-22).

Baerlocher '136 further discloses the following:

Re claim 18: determining a second situation includes determining, based on the first situation and the first outcome, a second situation, in which the second situation includes the objective and a second prize amount associated with the objective, and in which the second prize amount is

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different from the first prize amount (different bonus values of the various locations 66 on the paths 54; Fig. 10).

Re claim 19: determining a first situation includes determining a first situation of the secondary game, in which the first situation includes an objective for a game character (58) to reach a particular square on a game board (reaching the "collect" or "?" location of the upper path 54), and in which the first situation includes a first prize amount associated with the objective (Fig. 10; Col. 8, lines 14-67; Col. 9, lines 1-22).

Claim Rejections - 35 USC § 103

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claims 1-4, 8 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Seelig et al. (US 5,997,400) in view of Muzaffar et al. (GB 2,372,218 A).

Re claim 1: Seelig discloses a method comprising: initiating a secondary game (the racing horse game as depicted in Fig. 1) at a gaming device, in which the course of the secondary game depends on outcomes of two or more handle pulls (Col. 3, lines 24-37); determining at a first time a first situation of the secondary game (the initial position of the racing element 22), in which the first situation includes a first amount of time (as represented by the timer display 24) available for completing the secondary game; determining a first outcome (the indicia displayed on the wheels 18) (Col. 3, lines 38-44); and determining, at a second time, based on the first game situation and the first outcome, a second game situation (a subsequent position of the racing element 22), in

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which the second game situation includes a second amount of time (as represented by the timer display 24) available for completing the secondary game (Fig. 1; Col. 3-4, lines 62-13).

However, Seelig fails to disclose that the difference between the first amount of time and the second amount of time is greater than the elapsed time between the first time and the second time.

Muzaffar teaches a spot-the-difference type game in which a timer is provided that limits the amount of time a player has to respond, and further that the player may lose time for an inaccurate response (Pg. 5, lines 14-16; Pg. 6, lines 22-24). Additional time may be subtracted from the remaining time providing the player with less time than has simply elapsed, and as such, the difference between the first amount of the time (before one selection) and the second amount of time (before another selection and following an inaccurate response at the first time) may be greater than the elapsed time.

Seelig and Muzaffar are considered to be analogous art because both inventions are from the same field of endeavor of time-based games.

Therefore, it would have been obvious to a person having ordinary skill in the art at the time the invention was made to modify the secondary game of Seelig with the time reduction method of Muzaffar in order to encourage slot players to continue playing and to entertain both the players themselves and others who may be watching (Seelig, Col. 1-2, lines 66-4). Thus, it would have been obvious to combine Seelig with Muzaffar to obtain the invention as specified in claims 1, and 8 and 10, as follow.

Seelig further discloses the following:

Re claim 8: that determining a first situation includes determining at a first time a first situation of the secondary game, in which the first situation includes a first amount of time available for a

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game character (22) to reach a destination (the Win/Finish line, as depicted in Fig. 1) in the secondary game (Col. 3-4, lines 66-13).

Re claim 10: that determining an outcome includes: receiving an initiation signal from a player (pulling the lever 14) (Col. 3, lines 24-27); generating a random number; determining an outcome associated with the random number, in which the outcome comprises a set of symbols (Col. 3, lines 38-44); spinning a set of reels of the gaming device (Col. 3, lines 38-44); and stopping the reels such that the set of symbols are visible to the player (as depicted in Fig. 1). While Seelig is silent to generating a random number to determine the indicia displayed on the wheels/reels of the device, it is well known in the art to generate a random number from which a corresponding set of reel positions are determined.

Re claim 2: Seelig fails to disclose determining a reduction of time associated with the first outcome.

Muzaffar teaches reducing the time associated with an inaccurate response (the outcome of the selection made by the player) (Pg. 6, lines 22-24).

Seelig and Muzaffar are considered to be analogous art as provided above.

Therefore, it would have been obvious to a person having ordinary skill in the art at the time the invention was made to modify the secondary game of Seelig with the outcome based time reduction of Muzaffar in order to make the game more challenging to the player. Thus, it would have been obvious to combine Seelig with Muzaffar to obtain the invention as specified in claims 2 and 3-4, as follow.

Re claim 3: Seelig further discloses determining, at a second time, based on the first game situation (the initial position of the racing element 22) and the reduction of time, a second game situation (a subsequent position of the racing element 22), in which the second game situation

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includes a second amount of time available for completing the secondary game (as represented by the timer display 24 which is counting down) (Col. 3, lines 62-66).

Re claim 4: Seelig fails to disclose that the difference between the first amount of time and the second amount of time is equal to the sum of the reduction of time and the elapsed time between the first and the second time.

Muzaffar teaches a game that has a timer and that a player may lose additional time for an inaccurate response as described above, and further is considered to be capable of providing for the difference between the first and second amounts of time to be equal to the sum of the reduction (for the inaccurate response) and the elapsed time between responses.

11. Claims 5-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Seelig et al. in view of Muzaffar et al., and further in view of Walker et al. (US 2001/0031654). The teachings of Seelig and Muzaffar have been discussed above.

Re claim 5: However, Seelig as modified by Muzaffar fails to disclose that the first situation includes a first amount of time available for completing a first number of handle pulls. Walker teaches a method of automatically playing a gaming machine based on certain criteria such as the number of pulls (Para. [0075]; equivalent to applicant's "first number of handle pulls") to be played between a starting time (4462)) and ending time (4463; the difference between start and end time being equivalent to applicant's "first amount of time") (Fig. 5; Para. [0059], [0072], [0084] and [0101]).

Re claim 6: However, Seelig as modified by Muzaffar fails to disclose that the second game situation includes a second amount of time available for completing a second number of handle pulls.

Walker teaches that the gaming device increases the number of pulls that have occurred (Para. [0090]; the new stored value being equivalent to applicant's "second number of handle pulls") after a round of play and uses a clock (412) of a network server (4) to determine if play should continue (Fig. 3; Para. [0084]). In using the internal clock to determine if play should be continued (i.e. is there time remaining), the system is considered to be capable of determining an amount of time remaining by subtracting the current time of clock 412 from the end time 4463, which is equivalent to applicant's "second amount of time".

Re claim 7: However, Seelig as modified by Muzaffar fails to disclose that the second number of handle pulls is one less than the first number of pulls.

Walker teaches that the stored value of number of pulls is increased by one after each round as discussed above. In as much as the stored number of pulls could be implemented as a "remaining pulls" value by subtracting the current number of pulls from the maximum number of pulls 4464, the second number of pulls would be one less than the first number of pulls after each subsequent round using a remaining pulls variable.

Seelig as modified by Muzaffar and Walker are considered to be analogous art because both inventions are from the same field of endeavor of slot-type gaming devices.

Therefore, it would have been obvious to a person having ordinary skill in the art at the time the invention was made to modify the time-based secondary game of Seelig as modified by Muzaffar with the handle pull- and time-limited game of Walker in order to increase the play of the machine and the revenue for the casino. Thus, it would have been obvious to combine Seelig as modified by Muzaffar with Walker to obtain the invention as specified in claims 5-7.

12. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Seelig et al. in view of Muzaffar et al., and further in view of Hedrick et al. (US 6,368,216). The teachings of Seelig and Muzaffar have been discussed above.

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However, Seelig as modified by Muzaffar fails to disclose that determining a first situation, in which the first situation includes a first amount of time available to obtain a target number of game indicia.

Hedrick teaches a method of playing a secondary game in which the object is to obtain a certain number of symbols (1217) (Fig. 12A; Col. 21, lines 32-45).

Seelig as modified by Muzaffar and Hedrick are considered to be analogous art because both inventions are from the same field of endeavor of gaming devices having secondary games. Therefore, it would have been obvious to a person having ordinary skill in the art at the time the invention was made to modify the time-based secondary game of Seelig as modified by Muzaffar with the symbol collection game of Hedrick in order to encourage slot players to continue playing and to entertain both the players themselves and others who may be watching (Seelig, Col. 1-2, lines 66-4). Thus, it would have been obvious to combine Seelig as modified by Muzaffar with Hedrick to obtain the invention as specified in claim 9.

13. Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over Baerlocher '200 in view of Hedrick et al. (US 6,368,216). The teachings of Baerlocher have been discussed above.

However, Baerlocher '200 fails to disclose that the first situation includes an objective for a player to obtain a certain number of symbols on the reels of the gaming device over the course of multiple spins, and includes a first prize amount associated with the objective.

Hedrick teaches a gaming machine with a method of conducting a secondary game that awards the player with a bonus for accumulating a certain number of symbols (1217) on the reels (220) of the gaming machine over multiple spins (Fig. 12A-12B; Col. 21-22, lines 32-5).

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Baerlocher and Hedrick are considered to be analogous art because both inventions are from the same field of endeavor of gaming devices having secondary games.

Therefore, it would have been obvious to a person having ordinary skill in the art at the time the invention was made to modify the method for play of a secondary game of Baerlocher with the symbol collection game of Hedrick in order to increase the player's enjoyment and excitement (Baerlocher '200, Para. [0006]). Thus, it would have been obvious to combine Baerlocher with Hedrick to obtain the invention as specified in claim 20.

Conclusion

14. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Falciglia (US 5,935,002) discloses a computer-based system and method for playing a bingo-like game. Kaminkow (US 2004/003875) discloses a gaming device having an input device with a game state indicator. Vancura (US 2002/0187824) discloses methods of temporal knowledge-based gaming. Taylor (US 2002/0132660) discloses a method of time controlled gambling games.

15. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian G. Huffman whose telephone number is (571) 270-1348. The examiner can normally be reached on 7:30 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jong-Suk (James) Lee can be reached on (571) 272-7044. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

BGH


KIM NGUYEN
PRIMARY EXAMINER